

### **REMARKS**

Claims 4 and 9-18 are pending. Claim 16 is allowed. By this response, claims 4 and 17 are amended and claim 18 added. Reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

#### **Claim 4**

The Office Action rejects claims 4, 9, 10 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Ejima et al. (US 2002/0027602) in view of Habuto et al. (USP 6,810,441) and claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Ejima, Habuto and Yamaoka (USP 5,130,812). These rejections are respectfully traversed.

Claim 4 recites, *inter alia*, a control device which controls selective deleting of an audio file from a recoding medium, wherein, when the empty capacity of the recoding medium is less than the estimated recording amount, the control device controls selective deleting by controlling the reproduction processing device to reproduce a portion of an audio file that is a candidate deletion object for output by the audio output device and deletes the candidate deletion object upon determining that an operation is proceeding with a previously-initiated picture taking operation, wherein deletion of the candidate deletion object is performed in an image capturing sequence upon executing image capturing instructions when the operator presses a shutter button during the picture taking operation.

Applicant respectfully submits that Ejima and Habuto fail to teach at least the above recited feature of claim 4.

The Office Action states that Ejima fails to teach the above feature and cites Habuto as teaching this feature absent in Ejima. Applicant respectfully submits that Habuto fails to provide the teaching of the above feature.

Habuto teaches a digital camera which displays a message to a user that a memory is full if an attempt to capture an image is made when there is insufficient memory to store the captured image. Upon receiving this message, a user must disengage from the image capturing operation and initiate an erasing procedure to remove data from the memory. The user enters the menu screen using different buttons from the image capturing operation in order to access the

memory and delete files in the memory. Upon deletion of files to create sufficient memory space, the user can commence an image capturing operation. See column 12, line 9 through column 13, line 20.

Habuto's operation of deleting files does not correspond with a pressing of the camera during the image capturing operation. Habuto's camera operation relies upon the user disengaging from the image capturing operation using various other buttons other than the shutter button to access the memory and select files for deletion. After deletion of the files, the user can again engage in the image capturing operation. Thus, Habuto does not teach or suggest deletion of a candidate deletion object in an image capturing sequence upon executing image capturing instructions when the operator presses a shutter button during the picture taking operation, as recited in independent claim 4.

Further, Yamaoka is provided to teach aspects of dependent claims 11 and 12 and thus does not remedy the deficiencies of Ejima and Habuto. Therefore, the combination of Ejima and Habuto fail to teach each and every feature of independent claim 4 as required. Accordingly, reconsideration and withdrawal of the rejection with respect to independent claim 4 are respectfully requested.

#### Claim 17

The Office Action also rejects claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Habuto et al. (USP 6,810,441) in view of Niwa (USP 6,538,692). This rejection is respectfully traversed.

Claim 17 recites, *inter alia*, a control device which controls the storing of captured image data in the memory card, wherein if the memory card capacity is less than the estimated amount of image data, the captured image data is stored in an internal memory of the image capturing device and if audio data is stored in the memory card, a selected audio data is deleted from the memory card and the captured image data is transferred from the internal memory to the memory card upon deletion of the audio data and if audio data is not stored in the memory the image capturing operation is inhibited.

The Office Action relies upon Habuto and Niwa to teach the claimed features of independent claim 17. The Office Action asserts that Habuto does not teach the above recited feature of independent claim 17 and relies upon Niwa to provide this teaching absent in Habuto.

Niwa teaches an image recording system for a camera in which a captured image is stored in an internal memory of the camera if memory space is unavailable in an external recording medium. This allows time for exchanging of the external recording medium that has reached its full capacity with a different external recording medium that has available memory space. The data stored in the internal memory is then written to the new external recording medium. See column 6, lines 6-33.

In Niwa's system, a recognition of unavailable memory space in an external recording medium allows for time to exchange the external recording medium in order to record the captured image data. However, Niwa's system is not contingent upon audio data and Niwa's system does not teach or suggest deletion of data from the external recording medium which is at full capacity. Niwa's system merely teaches the exchanging of the external recording medium with a new recording medium.

Therefore, Niwa does not teach storing of the image data only if audio data is available for deletion and inhibiting the image capturing operation if audio data is not available for deletion.

Thus, the combination of Habuto and Niwa fail to teach the above noted features of independent claim 17. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

### **CONCLUSION**

For at least the above reasons, it is respectfully submitted that claims 4 and 9-18 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 09/994,747  
Amendment dated November 22, 2006  
After Final Office Action of August 23, 2006

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted

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